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Attorneys for Defendant  
NITEK International, LLC.

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

NETWORK VIDEO TECHNOLOGIES, INC., )

Plaintiff, )

v. )

NITEK INTERNATIONAL, LLC and DOES 1- )  
10 )

Defendant. )

Case No. C 08 2208 MHP

**THIRD DECLARATION OF EDWARD  
L. POLANEK IN SUPPORT OF  
DEFENDANT NITEK  
INTERNATIONAL, LLC's NOTICE OF  
MOTION AND MOTION TO DISMISS  
COMPLAINT FOR LACK OF  
SUBJECT MATTER JURISDICTION  
UNDER F.R.C.P. 12(B)(1)**

Date: July 28, 2008  
Time: 2:00 p.m.  
Place: Courtroom 15, 18<sup>th</sup> Fl.

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2 ///

3 Edward L. Polanek declares as follows:

4 1. I still reside in Richmond, Illinois and I am still Managing Member of  
5 Defendant NITEK International, LLC ("NITEK").

6 2. Before the filing of, during the pendency and since the dismissal of  
7 the declaratory judgment (DJ) action in the Central District of California: *Network*  
8 *Video Technologies, Inc., v. Nitek International, LLC; and Does 1-10*, Civil Action  
9 No. CV-07-4789 AHM (RZx) ("the first DJ action") I have not had, nor have I  
10 instructed anyone at or on behalf of NITEK to have, any contacts with anyone at  
11 NVT regarding any infringement by NVT of United States Patent No. 7,193,149  
12 ("the '149 Patent"), owned by NITEK.

13 3. None of the facts or statements made in the Declaration of Edward L.  
14 Polanek or the Second Declaration of Edward L. Polanek submitted in the first DJ  
15 action have changed in any material way.

16 4. To date, I have not made any statements to anyone with regard to, nor  
17 does NITEK have any plans for, enforcement of any NITEK intellectual property  
18 rights against NVT.

19 5. To my knowledge, no one at NITEK has made any statements to  
20 anyone regarding NITEK's plans for enforcement of any NITEK intellectual  
21 property rights against NVT.

22 6. Since the filing of the first DJ action I have instructed people at or  
23 working on behalf of NITEK to not make any statements whatsoever regarding the  
24 relationship of any NITEK patents to any NVT product, my intention being to  
25 avoid any controversy with NVT.

1           7.     NITEK presented a proposed written license agreement for licensing  
2 the `149 patent to NVT only after the first DJ action had been filed and only at the  
3 request of NVT's counsel.

4           8.     The proposed written license agreement for licensing the `149 patent  
5 that NITEK's counsel presented to NVT sought royalties on products related to  
6 structured cabling for CCTV, because we believed that NVT was seeking a license  
7 to use the `149 patent in relation to structured cabling systems for CCTV.

8           9.     To date, NITEK has made no evaluation of, nor reached any  
9 determination that, any product of NVT is infringing any claim or claims of United  
10 States Patent No. 7,193,149.

11          10.    In representing to the Court in the first DJ action that "we have no  
12 plans to file a lawsuit against NVT at this time," Attorney Gerstman was  
13 representing NITEK'S position relating to the `149 patent and that position has not  
14 changed.

15  
16           I declare that the foregoing is true under the penalty of perjury under  
17 California law and any other applicable law.

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19  
20  
21   Date:     June 6, 2008



22                               Edward L. Polanek  
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